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Client Reference: PC0269A

IFG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of: FINK ET
AL.

Confirmation Number: 3533

Application No.: 10/705,225

Group Art Unit: 1763

Filed: November 12, 2003

Examiner: Jeffrie Lund

Title: METHOD AND APPARATUS FOR IMPROVED ELECTRODE PLATE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the one-month Office Action dated October 13, 2005, for which a response is due on November 14, 2005, Applicant elects Group I, encompassing claims 1-20, with traverse.

In the Restriction Requirement, the Examiner identified two inventions, which were characterized as follows: (1) Group I, encompassing claims 1-20, drawn to an electrode plate assembly, and (2) Group II, encompassing claims 21-23, drawn to a method of replacing an electrode plate. The Examiner required restriction between these two inventions.

The Applicant respectfully directs the Examiner's attention to MPEP § 808, which states: "Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction therebetween as set forth in the following sections." (Italics emphasis is in original.) In addition, MPEP § 808.02 states: "The examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following: (A) Separate classification thereof; (B) A separate status in the art when they are classifiable together; (C) A different field of search."

It is respectfully submitted that the search and examination of the entire application can be made without a serious burden on the Examiner. Moreover, the Applicant respectfully

submits that the criteria for a proper restriction requirement have not been met. Accordingly, it is respectfully submitted that the Restriction Requirement should be withdrawn.

Each of the claims recite, among other features, an electrode plate comprising a plurality of gas injection holes and three or more mounting holes alignable with mounting screws. Accordingly, the Applicant respectfully submits that all of the claims share a common thread. As a result, the Applicant respectfully submits that there is no undue burden on the Examiner to examine all of the claims at the same time.

The Applicant does acknowledge the Examiner's assertion that the process can be practiced with another materially different product. However, given the similarity in the limitations recited by both the apparatus and method claims, the Applicant respectfully submits that the Examiner's argument is not supportable. Moreover, the Applicant respectfully reiterates that an examination of one of the Groups set forth by the Examiner necessarily will require examination of the remaining Group.

In other words, it is respectfully submitted that the search and examination for the elected Group necessarily encompasses the search and examination for the non-elected Group. In addition, it is respectfully submitted that the Notice should be withdrawn to in order to prevent duplicative examination by the Patent Office and unnecessary expense to the Applicants.

Reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,

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